

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16409 of the George Washington University, pursuant to 11 DCMR 3108.1 for a special exception under Section 210 for further processing of an approved campus plan and Subsection 3107.2 for a variance from Subsection 403.2 to exceed the maximum allowable lot occupancy to allow the construction and use of an addition to an existing parking structure for college/university use in an R-5-D District at premises 817 23rd Street, N.W. (Square 55, Lots 27, 851 and 853).

Hearing Dates: **November 18, 1998; January 5, 1999; March 2, 1999; April 7 and 22, 1999**

Decision Date: **May 19, 1999**

ORDER

PRELIMINARY MATTER:

The subject application was filed on September 24, 1998. In conjunction with the filing of this application, the Applicant filed a Motion to Consolidate the hearings in the subject application and Application No. 16389. The Applicant, The George Washington University filed BZA Application 16389 on July 20, 1998, requesting a special exception under Section 210 of the Zoning Regulations for further processing of an approved campus plan to allow the construction and use of a new replacement University hospital. The Motion was granted by the Board and the cases were consolidated for purposes of the hearings.

SUMMARY OF EVIDENCE:

1. The property that is the subject of this application is located in Square 55. The square contains an existing parking structure located on the east portion of Lot 27 adjacent to 22nd Street and Eye Street. The building was constructed as an addition to the Physical Education Building located at 817 23rd Street, N.W. The subject site is zoned R-5-D.

2. The existing garage is an eight to nine level masonry structure to the immediate south of the site. The existing structure was approved by the Board of Zoning Adjustment in Appeal No. 10673, decided April 8, 1971. The completed parking structure would be located on the east portion of Square 55 and would be consolidated into one lot (Lot 857), which would include Lot 853, a portion of Lot 851 and Lot 27. All of these properties are owned by the Applicant. These sites are presently used as off-street surface parking, a two-story office building (which the Applicant will demolish if this application is approved) and a small park. Lot 853 contains an access drive aisle to the existing garage.

3. The site is located in an R-5-D district which permits matter of right general residential uses of high-density development, including single-family dwellings, flats and apartments to a maximum height of 90 feet, a maximum floor area ratio of 3.5, and a maximum lot occupancy of 75 percent. A college or university that is an academic institution of higher learning, including athletic and other recreational facilities proposed to be located on the campus of a college or university, is permitted in an R-5-D District if approved by the Board of Zoning Adjustment.

4. The Applicant is proposing to construct an addition to an existing parking structure containing eight levels and approximately 200 spaces, to serve the faculty, students and guests of the George Washington University campus, including the employees, patients and guests at the proposed new George Washington University Hospital. The addition would add more space to each floor of the existing building. The maximum height of the structure with the addition would be 90 feet. The lot occupancy for the addition would be 79 percent. The aggregate floor area ratio would not exceed the 3.5 FAR allowed by the campus plan provisions of the Zoning Regulations. The addition would provide additional parking for the proposed new George Washington University Hospital as well as the University generally.

5. The Applicant's architect testified that the design of the structure contemplates the use of concrete pre-cast panels at the base of the structure, a combination of brick and precast panel in the mid-section of the structure, and lightened cornice line through the use of an architectural rail system at the top of the structure. In addition, vertical members were added to the horizontal bands to enhance the vertical rather than the horizontal appearance of the building. The architect testified that this addition works within the context of the existing structure, while presenting itself as a distinct building and not a continuation of the existing building. The Applicant's architect additionally proposes to separate the addition from the existing structure with a seven foot setback from the face of the existing building on the 22nd Street side.

6. The Applicant testified that the northwest corner of the addition will have a stairwell. The stair tower will be enclosed behind a glazed window wall system attached to the concrete structure. This wall system will be similar to that of Rome Hall, the University structure located across the street from the existing structure. The public entrance will be through a single curb cut. Landscaping will include plants to be placed along the garage wall and trees at the property line.

7. The approved campus plan requires the University to maintain a range of 2,700 to 3,000 off-street parking spaces. The Applicant presented evidence to the effect that the development of this proposed addition to the existing parking structure would maintain parking levels well within this range.

8. The Applicant's traffic expert proffered testimony and written evidence showing that the access system to the parking structure would not be changed with the construction of the proposed addition. Access to the proposed addition would be provided on Eye Street, H Street and 22nd Street. Garage exits would continue to be located on 22nd Street and H Street, and the existing driveway on Eye Street would remain after construction of the addition. The Applicant's traffic expert testified that there will be no objectionable or adverse traffic impacts to adjoining or nearby properties as a result of the development of the addition to the parking garage.

9. The Applicant testified that during the construction of the University parking garage addition, the University anticipates a total loss of 48 parking spaces, including a permanent loss of 20 spaces for drive access from the existing structure to the garage addition, and a temporary loss of an additional 28 spaces to aid construction breakthrough and provide a construction safety zone. The spaces that are lost temporarily will be returned to the parking inventory at the completion of the garage addition.

10. The Applicant testified that the existing University parking garage is located so as not to be objectionable to neighboring property because of noise. It is located in the middle of the campus and is adjacent only to University uses and activity. The proposed addition will share the same proximity characteristics as the existing structure. The noise emanating from the structure will be the familiar and normal sounds of motor vehicles that are common place at the University parking garage.

11. The Applicant testified that the addition will not increase the number of University students.

12. The Applicant's traffic consultant presented evidence that existing levels of traffic would not change as a result of the parking garage addition.

13. The Office of Planning, in its report dated November 12, 1998 and in its testimony, recommended approval of the application. The Office of Planning based its recommendation on a finding of a practical difficulty stemming from the following: small size of the Applicant's lot; lack of alternatives for off-site parking; the site's previous designation for off-street parking in the approved George Washington University campus plan; institutional need; and proximity of other structures to the property. Additionally, the Office of Planning noted that the granting of the area variance can be accomplished without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The Office of Planning further found that special exception relief will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to

adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.

14. The ANC neither presented testimony at any public hearing nor did it submit probative evidence into this record related to the proposed parking garage addition. Moreover, the ANC's traffic expert presented no evidence in its traffic report related to any adverse impact that may be associated with the addition to the parking garage.

15. The Applicant presented oral testimony and written evidence of the practical difficulty existing on its property:

a. Designation in approved Campus Plan. The revised Campus Plan for 1985 through the Year 2000, approved by this Board addresses and documents the University's intent to provide enough off-street parking in its own facilities so as to minimize the use of on-street parking by George Washington University students, staff and visitors. The Land Use Map, Figure 12A of the approved Campus Plan designates the subject site for mixed use purposes, one of which is off-street parking. Furthermore, the portion of the square where the addition will be located is specifically designated on the Land Use Map approved for the Campus Plan as a site for off-street parking;

b. Small Size of the Lot. The current zoning requirements for lot occupancy on the site will not support the placement of an architecturally and functionally sound parking garage;

The Applicant testified that it is proposing to build the smallest, least obtrusive structure that it can under the circumstances, and still maintain the building's architectural and functional integrity. However, the small size of the lot precludes the building of any sort of parking structure apart from a few spaces of off-street parking, without a variance from the lot occupancy allowance;

c. Lack of Alternatives. No parking alternative can be constructed on the subject site as a matter of right that will maintain the structure's functional and architectural integrity;

d. Discretionary Limit. The Zoning Administrator has been granted the discretion to sign off on requests for variances which ask for a two percent increase from the lot occupancy. Applicant's request is for a mere two percent more than this permissive amount;

e. Proximity of other Structure on the Property. Square 55 contains a parking structure which by its mere presence dictates the application's size, if the Square is to house structures which are architecturally compatible. This fact alone is enough to create a

practical difficulty in accord with the finding in Clerics of St. Viator v. D.C. Board of Zoning Adjustment, 320 A.2d 291, 294 (D.C. 1974) which found that the presence of existing structures on the site created a practical difficulty for which an area variance had to be granted; and

f. Institutional Necessity. The D.C. Court of Appeals in Monaco v. Board of Zoning Adjustment, 527 A.2d 1242, 1256 (D.C. App. 1987) proposed a test which organizations must meet before they can claim institutional necessity as a practical difficulty: “It must show (i) that the specific design it wants to build constitutes an institutional necessity, not merely the most desired of various options, and (ii) precisely how the needed design features require the specific variance sought.” The Applicant meets this test in that (i) the unusual location of a University in an urban setting creates a constant and urgent demand for University parking; and (ii) the only way for the Applicant to be able to construct a parking addition suitable to address the institutional necessity enumerated above is by requesting the Board for variance relief.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The proposed use of the site for a parking addition is consistent with the approved Campus Plan designations for the site.
2. The proposed use of the site for a parking addition is consistent with the Comprehensive Plan for the District of Columbia which designates the area for “Institutional Uses.”
3. The proposed use of the site for a parking addition is consistent with the objectives of the District Elements of the Comprehensive Plan.
4. The site access system will be able to accommodate this project without having any adverse impacts on the surrounding street network.
5. The existing University parking garage is located so as not to become objectionable to neighboring property because of noise.
6. There will be no objectionable or adverse traffic impacts to adjoining or nearby properties as a result of the development of the addition to the parking garage.
7. The parking addition will not have an adverse impact on neighboring properties because of the number of students. The addition will not increase the number of University students.

8. The gross floor area of all buildings and structures on campus, including the gross floor area of the parking addition does not exceed the allowed gross floor area for the entire campus.

9. The parking addition is consistent with the policy of avoiding “unreasonable campus expansion” into improved low-density districts.

10. Existing levels of traffic will not change as a result of the parking addition.

11. The uniqueness in this case arises from a confluence of factors which serve to create a practical difficulty on the subject site: designation in the approved campus plan, small size of the lot, lack of reasonable off-street parking alternatives on this downtown campus, proximity of other structures on the property and institutional necessity.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the Applicant is seeking special exception relief for further processing of an approved Campus Plan and an area variance from the lot occupancy allowance to authorize the construction and use of an addition to an existing parking structure on its campus in an R-5-D District. The granting of special exception relief requires a showing through substantial evidence that the relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations, and that it will not adversely affect the use of neighboring property. The granting of area variance relief requires a showing that by reason of an extraordinary or exceptional situation or condition of a specific piece of property, strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties, and that the relief can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations.

The Board concludes that the Applicant has met the burden of proof for a special exception. The Board concludes that the parking addition will be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions. The Board concludes that the parking addition is consistent with the policy of avoiding “unreasonable campus expansion” into improved low-density districts. The Board concludes that the Applicant has demonstrated that the proposed parking addition complies with all of the applicable special exception criteria specified under 11 DCMR 210 and that the use will not impair the intent, purpose and integrity of the Zoning Regulations and Map.

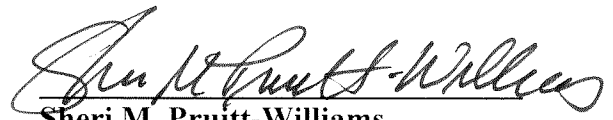
The Board concludes that Applicant has met the burden of proof for an area variance. The Board concludes that the uniqueness in this case, which arises from a confluence of factors such as: small size of the lot; lack of alternatives; small size of the variance; designation in the approved campus plan; institutional necessity; and the proximity of other structures on the property, creates a practical difficulty. This Board further concludes that the requested variance can be granted without substantial detriment to the public good and without substantially impairing the intent and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The Board concludes that it has accorded ANC 2A the "great weight" to which it is entitled. In light of the foregoing, the Board **ORDERS** that the application be **GRANTED**.

VOTE: **4-0** (Sheila Cross Reid, Jerry Gilreath, Betty King and Herbert Franklin to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


Sheri M. Pruitt-Williams
Interim Director

JUN 16 1999

Final Date of Order: _____

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THE ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICABLE TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT

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TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT.”

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ORD16409/POH

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16409

As Director of the Board of Zoning Adjustment, I certify and attest that on JUN 16 1999 a copy of the decision entered on that date in this matter was mailed first class, postage prepaid to each party in this case, and who is listed below:

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Attested By:

A handwritten signature in cursive script, reading "Sheri M. Pruitt-Williams".

SHERI M PRUITT-WILLIAMS

Interim Director